IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

SUIT NO.1647 OF 1993

The Mahanagar Telephone Nigam Ltd. ...Plaintiff

V/s.

Marine Inflattables & Boat Builders & Ors. ...Defendants

.....

Mrs.J.R.Thakker Co.for Plaintiff.

Mr.A.B.Dubey i/b N.N.Vaishnawa & Co. for Defendants.

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CORAM: A.M.KHANWILKAR, J.

OCTOBER 26, 2007.

P.C.

1. This Suit has been filed by the Plaintiff for recovery of amount due and payable by the Defendants under three different telephone bills in relation to telephone No.8558276. Defendants 2 to 4 are partners of Defendant No.1. According to the Plaintiff, the Defendants are subscribers of telephone No.8558276.

2. The Defendants have filed written statement and has maintained their stand by disputing the claim of the Plaintiff being excessive one. In that sense, dispute has been raised with regard to the correctness of the amount claimed under the suit bills, which dispute is squarely covered by Section 7B of the Indian Telegraphs Act. In such a case, reference of dispute to arbitration under Section 7B of the Act is imperative.

3. Having regard to the mandate of Section 7B of the Act, as expounded by the Apex Court in the case of **Telecom District Manager, Goa & Ors. vs. V.S.Dempo & Co. & Ors. reported in AIR 1996 SC 1545**, the matter deserves to be referred to arbitration. The reference to arbitration is for determination of disputes under Section 7B of the Act, which is a statutory remedy.

4. Counsel for the Defendants fairly submits that since it is a remedy of statutory arbitration, the Defendants are willing to submit to the said

proceedings instead of prosecuting the present Suit. However, the Defendants be permitted to raise all contentions available including that the suit claim had become barred by limitation.

5. The Central Government shall notify the arbitrator before whom the present dispute will be tried and decided in arbitration. The Plaintiff to intimate competent Authority of the Central Government to take immediate steps to notify the arbitrator in terms of Section 7B of the Act. Such notification shall be issued within eight weeks from today.

6. The arbitrator so appointed shall conclude the arbitration proceedings as expeditiously as possible and in any case, not later than six months from the date he enters upon arbitration or the parties are expected to make first appearances before him, whichever is earlier.

7. Needless to observe that all questions raised in the present Suit at the instance of either side will have to be decided on its own

merits in accordance with law in the arbitration proceedings.

8. In view of the above order, the Suit is disposed of. Refund as per rules.

A.M.KHANWILKAR, J.